

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOHN G. PEDICINI,	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	Case No. 04-12395 JLT
UNITED STATES OF AMERICA, and	:	
ANN M. VENEMAN, SECRETARY,	:	
UNITED STATES DEPARTMENT OF	:	
AGRICULTURE,	:	
	:	
Defendants.	:	

DEFENDANTS' PARTIAL MOTION TO DISMISS

Pursuant to Fed. R. Civ. P. 12(b)(1) and (6), Defendants, the United States of America, Ann M. Veneman, Secretary of the United States Department of Agriculture, and Linda Springer,¹ Director of the United States Office of Personnel Management, move to dismiss Count Two, subpart a, of the Complaint for lack of subject matter jurisdiction and for failure to state a claim. In support of this motion, the Defendants submit the accompanying Memorandum of Law in Support of their Partial Motion to Dismiss.

¹ Pursuant to Federal Rule of Civil Procedure 25(d)(1), the new Director of the United States Office of Personnel Management, Linda Springer, is hereby substituted for Dan G. Blair as a defendant in this case.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Damian W. Wilmot
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Dated: September 13, 2005

CERTIFICATION UNDER L.R. 7.1

I certify that in accordance with Local Rule 7.1, I have conferred with Plaintiff's counsel and have attempted in good faith to resolve the issues addressed in this Motion.

/s/ Damian W. Wilmot
DAMIAN W. WILMOT
Assistant U.S. Attorney